

from hazards associated with abatement procedures.

(vii) The recipient must keep a copy of each inspection report for an least three years. If a unit requires testing, or treatment of chewable surfaces based on the testing, the recipient must submit the test results and, if applicable, the certification of treatment to HUD. HUD will retain the records in the recipient's case file. The records must indicate which chewable surfaces in the units have been tested or treated. If records establish the certain chewable surface were tested, or tested and treated, in accordance with the standards prescribed in this section, these surfaces do not have to be tested or treated as any subsequent time.

(3) The applicant or recipient, however, must ensure that the program sponsor carries out all requirements in accordance with the paragraph, and must retain ultimate responsibility for complying with the requirements of this paragraph.

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Subparts A–D [Reserved]

Subpart E—Program Operation

§ 280.30 Grant agreement.

(a) *General.* The recipient's responsibilities under NHOP will be incorporated in a grant agreement executed by HUD and the recipient.

(b) *HUD Monitoring.* HUD will monitor the recipient's performance to determine whether the recipient is complying with the requirements of the grant agreement. HUD will rely on such data as information obtained from the recipient's records and reports, findings from on-site monitoring and audit reports.

[54 FR 22258, May 22, 1989. Redesignated at 61 FR 42953, Aug. 19, 1996]

§ 280.35 Minimum participation.

Except as provided in paragraph (a) or (b) of this section, the recipient may not begin the construction or substantial rehabilitation of homes until 25 percent of the homes to be constructed or substantially rehabilitated under the program are contracted for sale to purchasers who intend to live in the homes and the downpayments required under § 280.45(b) have been made.

(a) Recipients may submit a phasing plan to HUD for approval. The phasing plan may propose that the grantee

begin construction or substantial rehabilitation on an individual phase of the program when 25 percent of the homes in the individual phase of the program have been pre-sold. Each phase for which approval is sought must contain at least 16 homes. Each submission must include documentation that the phasing plan has been approved by the unit of local government in which the homes are to be located.

(b) Recipients may construct and substantially rehabilitate homes for the purpose of display to potential homeowners. The maximum number of display homes is limited to five percent of the number of homes to be constructed or substantially rehabilitated under the program, or three homes, where the program involves less than 60 homes.

[58 FR 38532, July 19, 1993. Redesignated and amended at 61 FR 42953, Aug. 19, 1996]

§ 280.40 Eligible purchasers.

(a) *Income limitations.* (1) Each family purchasing a home constructed or substantially rehabilitated under a program must have a family income on the date of purchase that does not exceed the following limitations:

(i) For programs located in a metropolitan statistical area, the family income may not exceed the higher of:

(A) The median family income for the metropolitan statistical area in which the program is located. At any time during the development of the program, the recipient may request HUD to modify this family income requirement. To obtain a modification, the recipient must submit a request by a unit of general local government in which the program is located, and supporting documentation demonstrating to HUD that such action is necessary to achieve or maintain neighborhood stability. If a modification is granted, HUD may permit up to 15 percent of the families that purchase homes under this part, to have a family income on the date of purchase that is between 100 and 115 percent of the median family income for the metropolitan statistical area.

(B) The national median income.

(ii) For programs that are not located in a metropolitan statistical

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area, the family income may not exceed the national median income.

(2) For the purpose of determining the median family income for the nation and metropolitan statistical areas, the recipient must use the most recent median family incomes developed by HUD under Section 8 of the United States Housing Act of 1937. Family income is the annual income as computed in accordance with 24 CFR 813.106.

(b) *Homeownership.* No member of a family purchasing a home constructed or substantially rehabilitated under the program may have owned a home at any time during the three years before the date of purchase.

[54 FR 22258, May 22, 1989. Redesignated at 61 FR 42953, Aug. 19, 1996]

§ 280.45 Sales contract and downpayment requirements.

(a) *Sales contract.* The recipient and each family purchasing a home constructed or substantially rehabilitated under the program must execute a sales contract. The sales contract shall contain appropriate terms and conditions covering the purchase of the home and must contain:

(1) The downpayment provisions described in paragraph (b) of this section;

(2) The repayment provisions described in § 280.55 of this part.

(3) Such other terms and conditions as HUD may require.

(b) *Downpayment.* Each family purchasing a home constructed or substantially rehabilitated under the program must provide a downpayment. A governmental entity or instrumentality may not provide funds for the family's downpayment.

(1) *Amount.* The amount of the downpayment includes all cash contributions made by the family (e.g., contributions for settlement and closing costs). The total amount of the downpayment must be equal to 10 percent of the sales price of the home except:

(i) The recipient may require a downpayment that is greater than 10 percent of the sales price of the home, if the recipient has determined that a higher downpayment is appropriate.

(ii) The recipient may require a downpayment that is less than 10 percent of the sales price of the home, if

the first mortgage on the home is to be held by a State or a unit of general local government under a home loan program provided by the State or unit of general local government, and the program provides for a lower downpayment.

(2) *Date of downpayment.* The downpayment must be made on the date required by the recipient. Under § 280.35, however, no construction or rehabilitation may be begun until at least 25 percent of the homes constructed or substantially rehabilitated under the program are contracted for sale to purchasers who intend to live in the homes and the downpayments are made.

(3) *Interest.* The recipient shall deposit the downpayment in an account with a federally insured bank, savings and loan institution or credit union. The recipient shall pay interest on the downpayment to the family from the date that downpayment is made through the date of settlement, at the actual rate of interest earned on the account. Under no circumstances may the interest rate paid to the family be lower than the lowest passbook rate of interest paid by a federally insured bank, savings and loan institution or credit union conducting business within the State in which the program is located.

[54 FR 22258, May 22, 1989. Redesignated and amended at 61 FR 42953, Aug. 19, 1996]

§ 280.50 Loan requirements.

(a) *Loan requirements.* A loan made to a family purchasing a home constructed or substantially rehabilitated under the program:

(1) Must be secured by a second mortgage held by HUD on the property involved;

(2) May not exceed \$15,000;

(3) May not bear interest;

(4) Is repayable to HUD upon the sale, lease, or other transfer of the property; except, as an alternative, the nonprofit organization may elect to provide the Homeowner Incentive under § 280.55(c) for subsequent sale or transfer of the property (the Homeowner Incentive is not available upon the lease of the property).

(5) Must be applied by the family to the purchase price of the home.